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V I N D I C A T I O N,

O F T H E

P E T I T I O N O F T H E L I V E R Y

O F T H E

C I T Y O F L O N D O N,

T O H I S M A J E S T Y,

As to the CHARGE upon the MINISTRY of raising a

R E V E N U E I N O U R C O L O N I E S

B Y P R E R O G A T I V E.

Quæ vos dementia cepit?



1769.

229.

Old Drury Lane Theatre
opened the 8 April 1663
with the Humorous Tore
began there at 3 o'clock
in the afternoon.

New Drury Lane Theatre
(opened before finished)
on the 1st March 1794.
with a Grand Selection
of Sacred Music (Low
Season for Oratorios)
and Plays 21 Apr
1794 the first performance
of Macbeth.

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V I N D I C A T I O N
O F T H E
L I V E R Y O F L O N D O N ' s
P E T I T I O N T O H I S M A J E S T Y ,
A S T O T H E
C H A R G E u p o n t h e M I N I S T R Y o f r a i s i n g a
R E V E N U E i n o u r C O L O N I E S b y P R E R O G A T I V E .
A d d r e s s e d t o t h e P U B L I C .

My Lords, Gentlemen, and Fellow Subjects,

ALTHOUGH the right of every subject in the most despotic kingdoms, to petition his sovereign against grievance and oppression, is indisputable; and though this right has been solemnly confirmed to every British subject by an express covenant, sealed with the best blood of Great Britain; yet every attempt to exercise this right has been, of late, infamously traduced by a set of despicable tools, who, though encouraged in their impudence by British money, have proved themselves unworthy the protection of a British government.

When the most decent and respectful petitions to his majesty, from the most respectable bodies of his subjects, are scandalously represented as traitorous insults of the factious and disaffected, it would look like a designed contempt of the livery of the city of London, if they were suffered to escape the honour of the same abuse. They have had their share. An obligation the citizens of London will not soon forget.

A31

The writers for the present ministry have been so long practised in scandal and abuse, falsehood and misrepresentation, that it would be as vain to seek for truth, fairness and decency in them, as wisdom and public spirit in their masters.

I should be glad to know what reason can be assigned for this unnatural deviation from all that is good and manly; what plea they have to offer in their own defence, that can carry a little more weight than the common one, of the virtue of the age they live in, in which no man is expected to sacrifice a dinner to truth and justice. The solution of this difficulty, I recommend to Creon, as a proper subject for his next essay on moral obligation. In which, (if his genius will stand his friend) he may introduce a moral justification of that man, who, while he enjoys a pension of three hundred pounds per annum, publickly declares, he receives nothing from the government, but that protection which every subject enjoys in common with himself.

Suppose it be granted, that the tenure by which these writers hold their pay, places or pensions, may be an obligation, occasionally to forswear what they know; even in that case, no power on earth can oblige them to believe what they swear. Therefore, the best chance we have to sift the truth out of gentlemen under such embarrassment, must be by reversing the practice relating to evidence, and examining them not upon their knowledge, but their belief.

I do not introduce these observations as a new discovery, or a matter of information to the public. The attentive reader, no doubt, has long ago observed the same himself. My view is only to put the unwary reader, who is not so well acquainted with these gentlemen, upon his guard against being imposed upon by their representation of facts.

Philo Britanniae has distinguished himself, in the Public Ledger of the eighth of August, by his low unmanly abuse of that respectable body, the Livery of the city of London, on account of their late petition to his Majesty. His attack upon the eighth article of their complaint, may serve for an example of his method of operation. The success of this manœuvre shall be the subject of our present inquiry.

To prevent all misunderstanding, it will be expedient to give a fair and true copy of the eighth article of complaint from the petition itself, rather than to depend upon this author's partial quotation. This charge upon the ministry is, that "They have established numberless unconstitutional regulations and taxations in our colonies. They have caused a revenue to be raised in some of them by prerogative. They have appointed civil law judges to try revenue causes, and to be paid from out of the condemnation money."

Philo Britanniae has prudently slipt by the latter part of this complaint; and, perhaps, he would have acted full as wisely, if he had done the same by the former part of it. But that was too heavy a charge upon his masters, to be suffered to pass without some notice. The following are his remarks upon it.

" From

" From hence an impartial reader would infer, that the ministers had raised taxes and promulgated laws over the colonies, without the authority of parliament, or any other than their own mere will and pleasure." If that is the case, they are highly culpable and punishable." And again, " If no taxation or regulation has taken place in America without parliamentary authority, who is arraigned by this article? The ministers or their masters?"

The last question stands in need of an explanation. For, really, I am not so well acquainted with the ministers, as to know whom they call their masters, or, whether they acknowledge any masters at all, or not. And yet, I must allow, that ministers of state are no masters known to the constitution of Great Britain.

It is evident, this author intended his remarks should be understood as a flat denial of the fact. He certainly must know they would be so understood. For, nobody can believe he would dare, publickly, to charge the ministry with being highly culpable and punishable; which he undoubtedly has effectually done, if he allows the fact to be true. I must beg leave here, to ask this author one question. Do you not in your conscience believe, that taxes have been levied, and are now levying, upon our colonists in America, by virtue of the prerogative royal, without any authority by act of parliament? If you were ignorant of the fact, you ought to have been a little more modest in your abuse. The Livery of the city of London might, without any breach of the laws of truth and decency, have been allowed a more respectful treatment, than you intended by calling them, " The vociferous patriots of Guildhall:"

Since I have taken the liberty to ask Philo Britannæ one question as to his belief, I will be so open with him as freely to tell him my own; which is, that it will answer no valuable purpose to himself to convince him of the truth of a fact, which he has had the misfortune to deny. But, as it is a matter of great moment to the public, that they should be set to rights with regard to a fact so interesting to them, I shall here insert a letter, formerly published in the North Briton, which will establish the fact beyond all dispute. If Philo Britannæ be not pleased with this republication, let him reflect, that he should have had more wit than to make it necessary, by insinuating that the complaint was groundless.

Quos Deus vult perdere, prius dementat.

I BEG leave to introduce the following reflections, upon a most interesting subject, with a quotation from the great Mr. Locke's treatise upon government.

" The supreme power cannot take from any man any part of his property without his own consent. For the preservation of property being the end of government, and that for which men enter into society, it necessarily supposes and requires that the people should have property; without which they must be supposed to lose that by entering into society, which was the end for which they entered into it; too gross an absurdity for any man to own!

Men therefore in society having property, they have such a right to the goods which by the law of the community are theirs, that nobody hath a right to take them, or any part of them, from them, without their own consent; without this they have no property at all. For I have truly no property in that which another can by right take from me when he pleases, against my consent. Hence it is a mistake to think that the supreme or legislative power of any commonwealth can do what it will, and dispose of the estates of the subject arbitrarily, or take any part of them at pleasure.—A man's property is not at all secure, though there be good and equitable laws to set the bounds of it between him and his fellow subjects, if he who commands those subjects, have power to take from any private man what part he pleases of his property, and use and dispose of it as he thinks good.

“ But government, into whatsoever hands it may be put, being instituted with this condition, and for this end, that men might have and secure their properties, the prince and senate, however it may have power to make laws for regulating property between the subjects one among another, yet can never have a power to take to themselves the whole or any part of the subject's property, without their consent. For this would be in effect to leave them no property at all.

“ It is true, governments cannot be supported without great charge, and it is fit every one who enjoys his share of the protection, should pay out of his estate his proportion for the maintenance of it. But still it must be with his own consent; i. e. the consent of the majority, giving it either themselves, or by their representatives chosen by them; for if any one should claim a power to lay or levy taxes on the people, by his own authority, and without such consent of the people, he thereby invades the fundamental law of property, and subverts the end of government.”

These judicious observations and unanswerable arguments of Mr. Locke, will be read with the highest pleasure, by every subject of the crown of Great Britain, when he reflects that the grand point here established is, by the constitution of the government under which he lives, effectually secured to every member of the community; and will continue his birthright as long as that constitution shall remain inviolate and in its full vigor. But let it be remembered, that it will be in vain to claim this right, although the title to it be ever so indisputable, when we have by carelessness or complaisance once quitted possession of that power which must maintain it.

“ The house of commons is the guardian of the rights and liberties of the commons of Great Britain, a third part of the legislative power, and one of the three estates of the kingdom; which being instituted as checks and counterpoises to one another, for the better securing our liberty against all, have their distinct and separate rights, privileges, and powers, as well as common, which ought to be kept sacred and inviolate; otherwise our constitution is lost. For whensoever any one of these becomes subordinate to, and dependent upon either of the other, the civil balance, wherein lies our security, is destroyed.

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" All attempts upon the rights of any of these are dangerous to the whole, especially those of the commons; who being vastly the majority, and the only indispensably necessary part of a commonwealth, their safety and security ought to be consulted and provided for, before that of any branch, and even against it, if ever they shall happen to be inconsistent. Our constitution itself, so long as it shall be preserved unbroken, is a sufficient guard against any invasion upon any of them, by open violence; no one of the three estates being intrusted with so much power, as to be able forcibly to take from either of the other, any of their rights." Hist. of the parl. 1700.

The greatest or only privilege the commons of Great Britain have reserved to themselves, which can secure their freedom, and their independence as a branch of the legislature, is the power of granting money for the use of government; of appointing the manner in which it shall be raised, and the purposes to which it shall be applied: which includes also a right to be informed afterwards how it has been disposed of.

The strength of this barrier to the liberty of the subject is so secure and effectual, and has in fact proved so insurmountable an obstacle to the schemes of ambitious and despotic men, that all their wit has been more than once employed in endeavours to remove it, either by force or artifice; though, thank God, hitherto without success. Ministerial attempts for this purpose, when obstinately pursued, (besides the public vengeance upon themselves) have already cost one king his head, and another his crown.

It ought here to be mentioned to the honour of the representatives of the commons of Great Britain, that, even in the most complaisant times, the house of commons has never yet betrayed its trust in this most interesting case; but always most strenuously defended this just and truly important right of the commons. Nay, when necessity has required it, they have resisted, even unto blood, rather than submit to that unconstitutional claim of the crown, a power of levying money, and imposing taxes upon the people, under pretence of prerogative. And at last when the government was dissolved by James the second, the agents for the kingdom, even in that emergency, nobly stood out from electing even William the third to be their king (although they looked upon him with gratitude as their deliverer) until he had agreed to the following condition, among others, particularly inserted in the declaration of rights.

" The levying money to or for the use of the crown, by pretence of prerogative, or without grant of parliament, for longer time or in other manner than the same is or shall be granted, is illegal."

I hope I may now, without offence, say, that a king of Great Britain has no such prerogative. It is a prerogative of the commons of Great Britain to tax themselves; a prerogative, committed in trust by them to their representatives; and is, perhaps, the only prerogative they have, effectually to secure their independence as a branch of the legislature. If this be once given up,

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all pretence to liberty and property afterwards must be ridiculous, and will certainly be treated as such, even by those men, who are ready enough to promise very fair beforehand, in order to obtain an indulgence with a power which promises so very much to the aims of ambition; but which a free people, whilst they continue in their senses, will never trust in the hands of the executive of the government.

Those who are most desirous of such power, are least fit to be intrusted with it. They ask for they know not what. If they should obtain their request; in the first act, the world would probably be set on fire; but the next would certainly end with finding themselves involved in the fate of Phaeton.

I am at a loss to reconcile with the declaration of rights, and those revolution principles upon which our constitution stands, the levying money and laying taxes upon the British subjects in the West Indian islands, by virtue of the prerogative royal, for the use of the king, his heirs, and successors.

It is probable that many readers will stare at this intimation, not believing it possible for a ministry, at this time of day, and under a British king, to run so precipitately upon their own ruin. But that I may not appear to talk without book; and as I am unwilling to misrepresent the case, I will give you an extract from one of the letters patent, which may serve as a sample of the other four.

“ Whereas the island of Tobago was conquered by us during the late war, and has been ceded and secured to us by the late treaty of peace, &c.

“ We have thought fit, and our royal will and pleasure is, and we do hereby, by virtue of our prerogative royal, order, direct and appoint, that an impost or custom of four and an half per cent in specie shall, from and after the 29th day of September next ensuing the date of these presents, be raised and paid to us, our heirs and successors, for and upon all dead commodities of the growth and produce of our said island of Tobago that shall be shipped off from the same.

“ And we do hereby require and command the present governor and commander in chief, and the governor and commander in chief for the time being, and the officers of the customs in our said island of Tobago now and hereafter and for the time being, and all others whom it may concern, that they do respectively take care to collect, levy and receive the said impost or custom according to our royal will and pleasure signified by these presents. In witness whereof we have caused these our letters to be made patent. Witness ourself, at Westminster, the 20th day of July, in the fourth year of our reign,”

By writ of privy seal,
&c. &c. &c.

As I have intimated above, this extract may serve as a sample of the other four patents, viz. for St. Vincent, St. Dominica, Grenada, and the Grenadines; except that with regard to Grenada, &c. where the French had laid a poll-tax upon the inhabitants,

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{ 9 }

bitants, that poll-tax (if I am not misinformed) is also continued upon them, by their respective patents, over and above the four and an half per cent before mentioned.

As this is plain matter of fact, let it speak for itself. I cannot say much in its defence. And all I have been able to meet with, as a plea in justification, is, that these were conquered islands, and by their capitulations agreed to be on the same footing as the Leeward Islands with regard to taxes, &c. and therefore have virtually consented to this tax, which some of the Leeward Islands pay. Consequently they have no right to complain that the ministry have taken them at their word.

It is not my business to enter into the propriety or universality of such a sort of consent, or how far the terror of some can in justice bind the property of all. I will only say that if the inhabitants should speak for themselves, we might probably hear some shrewd objections to it. But the grand defect of this plea in justification, is, that it appears to be entirely foreign to the point, for the question is not, what the inhabitants of those islands may, or may not, have reason to complain of; but the true and important questions in this case are; In what hands has the British constitution entrusted the power of levying money? — For what end is it there placed? — And what power does it allow the executive of the government to exercise in our foreign colonies, so as to secure our own safety at home, and their prosperity abroad?

The power of levying money never was, nor ever can, in a free government, be with safety placed in the hands of the supreme executive, unless mankind, in general, had fewer passions and more wisdom than by experience appears to have fallen to their share. As the supreme executive has necessarily at his command the united force of the whole community, for the purposes of peace and order at home, and defence against foreign enemies; if the power of raising money also, was put into the same hands, I should be glad to know what can secure that community, under a bold minister, against the severe scourge of despotism. That favorite instrument for this purpose, a standing army, would be in his own power to keep, or not, as he might see occasion.

This mischief has been most wisely provided against by that mixed legislature, of which the happy constitution of Great Britain is composed. But, (if I may be allowed to repeat what has before been taken notice of) the continuance of this blessing depends upon preserving the due balance of the three estates; which cannot be done, without preserving entire and untouched the respective privileges of each.

The great, perhaps only, privilege the commons have to support their independence is (as I observed) the power of raising money, when they find it necessary, or useful. If this should once be gone, all must go with it, and a dissolution of the government ensue. For this reason it is, that the house of commons have always guarded this privilege with so jealous and judicious a watchfulness as never to suffer the house of lords to add even an amendment to a money bill. And we are encouraged by experience

rience to trust with confidence in both houses of parliament, that they will never suffer such a power to invest in the crown, which would be equally dangerous to both, as it must in time render the crown entirely independent on both.

This is a case, which most properly falls under their cognizance, and therefore, Sir, we will, with all humility, leave it to their enquiry, wisdom and care. And there may it rest in peace and security that all will be done that may appear necessary, or expedient, for the preservation of our excellent constitution.

I will conclude with mentioning some facts, which I suspect have been unattended to, or mistaken; and from that mistake, perhaps this blunder of the ministry has happened.

On the twelfth of September 1663, the assembly of the island of Barbadoes granted a duty of four and an half per cent. in speacie on all dead commodities, of the growth or produce of the said island, exported from the same; and granted it for the support of the government in the island, and for building and repairing forts, &c. necessary for the defence of the island.

In the year 1664 the several islands of Nevis, Montserrat, and St. Christopher did the same.

And the assembly of the Island of Antigua on the 19th of May 1668, granted it also in that island. And these are the only islands which have ever yet been subject to it.

It is very clear that thus far there was no claim of a prerogative of the crown in the case. All was done by acts of their own assemblies, the representatives of the commons there.

The reader must have taken notice that these duties were granted in Charles the second's reign. And it is very remarkable that, though the island of Jamaica (which was a conquered island) stood out, and would not consent to this duty there, yet the ministry of those times had more wisdom than to claim a power to do it for them, by virtue of the prerogative royal. The fatal consequences of such a measure was not yet out of their memory. Therefore that island has been exempt from it to this day.

It must be acknowledged, that the ministry of a future reign, had a view of this kind, with respect to Jamaica, about the year 1717. But, whilst it was under consideration, the attorney-general (who was afterwards lord Lechmere) was consulted upon the case; and gave it as his opinion, that any person who should advise his majesty to such a measure, would be guilty of high treason. The consequence was, the ministry wisely dropt, what they had weakly designed. This opinion, if I am not misinformed, is now in being in Mr. Lechmere's hand-writing.*

With regard to the capitulations of those which were conquered islands, all I have to say, is, the capitulations agreed to, could

* This intelligence was communicated by William Wood, Esq; late secretary to the commissioners of his majesty's customs, in the year 1764; by whom Mr. Lechmere's opinion had been preserved, and in whose possession it remained at that time.

bind the respective contractors no longer than during the interregnum (if I may so call it) of the capitulation. When they were annexed to the British crown, they became intitled to the privileges of a British government.—But when Tobago was conquered, or by what general or admiral, or what the capitulation was, or in what gazette it was published, are now so intirely out of my memory, that I must leave those circumstances to be more particularly enquired into by my superiors.

This letter was first published on Saturday the 2d February 1765. And on Monday the 11th of the same month, a motion was made by Mr. Dempster in the house of commons; upon which, the house agreed, *non sine contradicente*, to the following resolution:

“ Resolved,

That an humble address be presented to his majesty, that he will be graciously pleased to give directions that there be laid before this house, copies of all instructions under the great seal, authorising the levying a duty of four and an half per cent, or any other duty whatsoever, upon certain commodities in the islands and provinces ceded to Great Britain by the last peace, together with copies of all representations from the commissioners of the customs, memorials from the treasury, and orders of council relating thereto.”

Pursuant to this address the several copies were presented to the house on Monday the 18th, and Tuesday the 19th of the same month (the titles of which may be seen in the printed votes) and were ordered to lie upon the table to be perused by the members of the house.

Philo Britannæ! answer me ingenuously. Is not this (what you called for) “ Coming to fair argument”? — What is now your opinion of the eighth article of the livery of London’s complaint? — If, as you desire, “ Victory shall declare on the side of truth, justice, and Public Good,” On which side do you believe she will declare? On the side of the ministry, or, on the side of the petitioners?

Notwithstanding what is here undeniably proved, it is very probable, the ministry’s faithful echoes will continue repeating, “ The petition of the Livery of London is ridiculous, and the complaint ill founded.” — If so, we must be content to let them take their own way, and say they know not what, and they know not why. Such barefaced falsehoods cannot impose upon any man, who is not willing to be deceived. *Qui vult decipi decipiatur.*

After returning my thanks to Philo Britannæ for this favourable opportunity of reviving our attention to so interesting a fact, which, by this time, may possibly have slipt the memory of some of our worthy representatives in parliament, I must leave him to enjoy the triumph for his victory over his own sagacity.

The legality of this imposition of four and an half per cent, was contested with the crown in the Island of St. Vincent,

232

cent, by Mr. Otley a planter; and the issue was tried there. The jury delivered in a special verdict, which was argued before the judges of the courts of law, who gave judgment in favour of Mr. Otley. An appeal from the courts of law, was then brought before the governor and council of the island. The governor and council, after a full hearing, confirmed the judgment of the courts of law. This last determination was about July 1768. Upon this, an appeal was brought before the king in council here. The case, as I am informed, now stands referred to council learned in the law for their opinion, and there it rests*. During this formal suspension of justice, the duties continue to be levied by authority of the letters patent. How long we are to proceed in this illegal method of levying money by pretence of prerogative, we hope will not be left to the discretion of a ministry, who seem so fond of the novelty. We rather hope, it will not be suffered to escape the serious attention of our worthy representatives in parliament, at their next meeting.

"That levying money to or for the use of the crown, by pretence of prerogative, or without grant of parliament, for longer time or in other manner than the same is or shall be granted, is illegal."

Is not this stipulation of the bill of rights expressed in plain and intelligible language? Can any doubt arise about the sense and meaning of it? Where is that genius to be found, who can discover the least duplicity in the expression, or distinguish away the meaning? Then, how shall we account for this bold obstinacy of the ministry in support of a measure, which strikes at the very foundation of the British constitution, and sets the bill of rights at defiance? I should be glad to see this accounted for upon a more honourable, a more honest principle, than the influence of the French cabinet. Until this be done, what hope can any reasonable man have, what confidence can he place in men, who shew no gratitude to, no feeling for their king and unhappy country? Surely, the committee at S—t J——'s will not yet dare to profess an intention to set the nation together by the ears, in order to make way for what ministers of state, in all reigns, have had a secret fondness for, and, since the revolution, have honoured with the name of the old constitution.† With this title they dignified absolute monarchy, that determined plan of the weak unrelenting house of Stuart; the obstinate pursuit of which, brought about the glorious event of 1688.

Since the revolution, ministers of state have modestly concealed this fondness from the public, and paid their devotion to this *fille de joy* by stealth, in the hours of retirement. But, now the fashion of the times has removed the reproach of exposing their kept-mistresses to public view, our ministers are happily freed

* We hear that Mr. Otley is just arrived in England, in order to pursue this business, which will soon come to a hearing at the Cockpit.

† See the first letter in the *Political Register* for August, 1769.

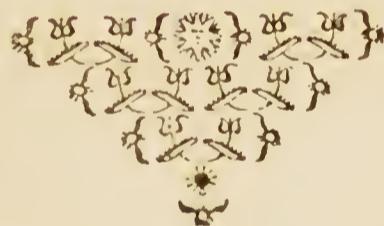
A. E. O.

(13)

from this awkward restraint, and can, without shame or remorse, boast of their unconstitutional attachments. This must be allowed to be open and above board. But, how the public are to be reconciled to this, is, I suspect, a case our present managers have forgotten to take into consideration. In this contest, who ought to submit? The ministers, or the people? The people cannot submit, without tamely surrendering what has been purchased at the expence of so much British blood and treasure. If the ministry are weak enough to believe we are sufficiently debauched for that purpose, I hope they will find themselves mistaken. Bad as we have been, we have never yet gone so far; and let us hope we never shall.

It is very true, the loyal subjects of this government have been remarkable for their civility and complaisance to a ministry; but, LOYALTY itself forbids them to look on with indifference, when their excellent *constitution*, upon which their all depends, stands tottering with one foot in the grave. When the first principles of the *constitution*, the sacredness of property, and the freedom of election, are brought into question; surely, it is high time for the friends of liberty to speak plain,—to present the truth with decency, and without disguise, before the throne.

HAMPDEN.



APPENDIX.

Decr 1795 } 443 -
or
Janv 1796 } during the

The greatest part of these
2 months, the most violent
heavy gales, tempests &
tremendous, have prevail'd
— it is supposed for a
century past, the wind
has not been so dreadfully
disastrous & fatal at sea —
many ships, totally lost
of John Vaughan Capt. York.

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Admiral Christian, with a
fleet of Men of War, & a
Conway of 200 sail & up
wards bound to the West
Indies — after having been
at sea 7 weeks — many were
dispersed & obliged to make
as far as they could for
safety.

Admiral Christians on his
return having scattered
fleet, was wrecked knight